

**THE IDENTIFICATION OF INDIVIDUALS POTENTIALLY  
AFFECTED BY THE ALLEGED CONDUCT OF CHEMIST ANNIE  
DOOKHAN AT THE HINTON DRUG LABORATORY**

**FINAL REPORT TO GOVERNOR DEVAL PATRICK**

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### **Overview**

In September, 2012, Governor Deval Patrick established a Task Force whose goal was to identify all of the individuals who potentially could have been affected by the alleged conduct of Chemist Annie Dookhan at the Hinton Drug Laboratory in Jamaica Plain, MA, from 2003 to the present. The primary purpose of the Task Force was to ensure that prosecutors, defense attorneys, and judges were provided with as much information as possible about the identity of those individuals potentially affected, so as to enable them to respond appropriately to the alleged misconduct from their respective positions within the criminal justice system. The objective was to make all reasonable efforts to identify each and every one of the individuals who, depending upon the facts of his or her case and the applicable law, could seek their day in court; the objective was not to pass judgment or make factual or legal determinations about any particular defendant or any particular case. In short, the goal was to ensure that the criminal justice system and all potentially impacted defendants were afforded the opportunity to achieve fundamental fairness or, simply stated, to get it right.

In September, 2012, based upon the database then maintained at the Hinton Laboratory, we generated a list of approximately 37,500 individuals whose drug samples had been tested in some manner by Ms. Dookhan during her work as a chemist at the laboratory from 2003 to 2012. The list included the names of individuals whose drug samples had been tested by Ms. Dookhan as a "primary" chemist or a "secondary" (confirmatory) chemist. The list was based upon the database then maintained at the laboratory and contained entries for every drug sample tested by Ms. Dookhan from 2003, when she was first employed, to the present. Based upon the total number of drug samples contained in the laboratory data base that were associated with testing

performed by Ms. Dookhan (close to 70,000 samples), laboratory officials estimated that the total number of individuals whose cases were associated with Ms. Dookhan was approximately 34,000-35,000. Based upon our subsequent review and analysis of the list and the laboratory database, we determined that the actual number of names of individuals contained on the list generated in September, 2012, was 37,554.

At the outset of our work, the overriding priority was to identify as expeditiously as possible those individuals who at the time were potentially most adversely affected by the alleged conduct of Ms. Dookhan: individuals who were then incarcerated (or in custody) on a drug case in which Ms. Dookhan had performed drug testing. These individuals may have been incarcerated while serving a prison or jail sentence in a state or federal correctional facility, held on bail while awaiting trial on a pending case, or in custody for other reasons (e.g., parole detainers, probation violations, immigration matters, or juveniles committed to the Department of Youth Services). Within 45 days, we had identified a total of approximately 2,000 individuals who were then incarcerated on a drug case or a drug-related case in which Ms. Dookhan had performed drug testing from 2003 to the present.

From late last year through mid-2013, we worked through three (3) basic phases to attempt to identify every individual who potentially may have been impacted by the alleged conduct of Ms. Dookhan. As of August, 2013, upon the completion of Phase I, Phase II, and Phase III of our review, we have identified a total of 40,323 individuals whose drug cases potentially may have been affected by the alleged conduct of Ms. Dookhan. Law enforcement officers recovered drug samples from these 40,323 individuals in eight counties: Barnstable, Bristol, Dukes, Essex, Middlesex, Norfolk, Plymouth, and Suffolk (as well as a one-time instance in Worcester). As outlined below,

most, if not all, of the additional 2,769 individuals who have been identified since September, 2012 are associated with individuals who or cases which were previously identified and contained on the original list generated in September, 2012.

Our review, analysis, and identification of potentially impacted individuals is now essentially complete. Thus far, over 2,600 court hearings have been held statewide in the Superior Court on Dookhan-related cases or Dookhan-related issues. The prosecution of Ms. Dookhan by the Attorney General's Office for certain alleged crimes is ongoing. Likewise, the wider investigation into the practices, procedures, and overall reliability of drug testing at the Hinton Laboratory by the Inspector General's Office is also ongoing.

### **Summary of Our Three-Phase Review and Analysis**

#### **Phase I**

From September - December, 2012, we focused our efforts on coordinating with the District Attorneys, the Committee for Public Counsel Services, the private defense bar, the United States Attorney's Office, the Federal Defender's Office, the Superior Court, the District Court, the Boston Municipal Court, the Juvenile Court, and various other agencies within the criminal justice system to exchange information and data regarding those individuals who potentially may have been impacted by the alleged conduct of Ms. Dookhan. A list of the agencies and offices with which we consulted and coordinated is attached as Exhibit A. Throughout our work, each of these agencies and offices shared information and resources with us on an ongoing basis and were fully supportive of our efforts in every way.

The foundation for the sharing of information was a master list (or spreadsheet) of approximately 37,500 names of individuals upon whose drug samples Ms. Dookhan allegedly had worked as a "primary" chemist or a "secondary" (confirmatory) chemist from 2003 to the present. The original master list was generated by the Department of Public Health's Information Technology Department in late August and early September, 2012, and was based upon the available personal identifying information and other data contained within the Hinton Laboratory data base.

The master list was provided (or made available electronically with CORI-protected safeguards) to the District Attorneys, the Committee for Public Counsel Services, the private defense bar, and other appropriate agencies during the first week of September, 2012. Due to various shortcomings in the manner in which the information and data were recorded and maintained at the Hinton Laboratory, throughout September, October, and November, 2012, information technology specialists, law enforcement investigators, and others from the Massachusetts State Police and the Executive Office of Public Safety and Security undertook a wide range of investigative and technological efforts to refine or revise the personal identifying information and other data within the master list so as to enhance our ability to accurately identify by true full name as many of the individuals on the list as possible. The cooperation of the various agencies and offices set forth in Exhibit A were extraordinary during this effort.

In order to most effectively coordinate the response of the criminal justice system to the alleged conduct of Ms. Dookhan, starting immediately upon the creation of the Task Force in September, 2012, we held joint meetings with the District Attorneys, the Committee for Public Counsel, the private defense bar, the United States

Attorney's Office, and the Federal Defender's Office, as well as representatives of numerous other criminal justice agencies and offices. On an ongoing basis, we distributed specific, individualized "priority lists" reflecting the names and personal identifying information of those individuals on the master list of approximately 37,500 names who at the time were in the most severely-impacted categories: individuals in state or federal custody while serving a prison or jail sentence, individuals in state or federal custody while being held on bail awaiting trial, individuals within the custody or authority of the Department of Youth Services, individuals on parole, individuals on probation, and individuals who had a prior or predicate Superior Court drug conviction.

During the same time period, we met and communicated regularly with the Chief Justice of the Superior Court, the Chief Justice of the District Court, the Chief Justice of the Boston Municipal Court, and the Chief Justice of the Juvenile Court, as well as those judges overseeing the special "drug lab sessions" in each of the affected counties. Our purpose in doing so was to ensure that we were coordinating our efforts with those of the Trial Court, in order to most effectively and expeditiously identify all of the individuals in the priority categories, determine their corresponding criminal cases, indictments, and docket numbers, and afford them (and their counsel) an opportunity to request a court hearing wherever appropriate.

At the joint criminal justice meetings, in addition to the review and distribution of the priority category lists, prosecutors, defense counsel, and representatives of the various other agencies discussed certain Dookhan-related legal, practical, and ethical issues that were then arising within the court system on a frequent basis: requests for the discovery of potentially exculpatory information relating to the Hinton Laboratory in general (e.g., evidence logs, internal procedures, protocols, quality assurance materials,

training materials, and internal investigation reports that were within the possession of the Department of Public Health, the Attorney General's Office, or the Inspector General's Office); requests for the discovery of potentially exculpatory information relating in particular to the investigation and prosecution of Ms. Dookhan herself (e.g., Massachusetts State Police investigative reports, witness statements, and transcripts of grand jury testimony that were within the possession of the Attorney General's Office); requests for the discovery of potentially exculpatory information relating to specific individual cases and specific individual drug samples on which Ms. Dookhan had performed tests (e.g., handwritten laboratory notes (or "powder sheets"), evidence control cards, chain of custody records, mass spectrometry data, and other materials relating to specific individual cases that were within the possession of the Department of Public Health, the Attorney General's Office, or the Inspector General's Office); requests to generate and distribute a master list of the names of all of the individuals whose drug samples had been tested at the Hinton Laboratory, whether by Ms. Dookhan or any other chemist; and various legal, practical, and ethical concerns surrounding the assignment of counsel, adequate and sufficient access to inmates and clients, the transportation of defendants to and from correctional facilities, courthouse and courtroom security, audio-video conferencing of court hearings, and other real life, practical considerations related to the ongoing response by the criminal justice system. For all of the criminal justice agencies at the meetings, however, the overriding focus was on continuing our joint efforts to enhance the accuracy of the information related to each of the names on the master list.

As of December, 2012, we had specifically identified, designated, and provided relevant information to prosecutors and defense attorneys about approximately 10,000

potentially impacted individuals who fell within the various "priority categories": individuals in state or federal custody while serving a prison or jail sentence, individuals in state or federal custody while being held on bail awaiting trial, individuals within the custody or authority of the Department of Youth Services, individuals on parole, individuals on probation, and individuals who had a prior or predicate Superior Court drug conviction or a prior Juvenile Court delinquency finding.

The majority of the remaining 27,500 names were (and remain) those of individuals who from 2003 to the present have been charged with lesser drug offenses (e.g., first offense possession offenses) that have been prosecuted and resolved in the District Court or the Boston Municipal Court. We fully recognize and appreciate the potential impact that a prior guilty finding, "continuance without a finding", period of probation, fine, or other routine disposition on a first-offense District Court drug case might have on an individual's criminal history, future employment, educational opportunities, public housing qualifications, or other daily pursuits.

Working in conjunction with the Committee for Public Counsel Services, the Superior Court, and the Probation Department, as of December, 2012, most, if not all, of the identified 10,000 individuals who so qualified had been assigned counsel for purposes of reviewing their case and potentially seeking some form of court hearing. Working in conjunction with prosecutors, defense attorneys, judges, and court personnel, as of December, 2012, most, if not all, of the 2,000 individuals incarcerated in prisons or county jails (those in the highest priority category) on Dookhan-related cases had been brought before a court or otherwise afforded some form of Dookhan-related factual and legal review.

## **Phase II**

Beginning in January of this year, we focused our efforts on improving and enhancing the accuracy and personal identifying information of the approximately 37,500 names on the master list by reviewing actual laboratory files, evidence submission forms, drug receipts, evidence control cards, and other laboratory documents then in the possession of the Hinton Laboratory, the Massachusetts State Police, the Attorney General's Office, and/or the Inspector General's Office. As a supplement to the information technology or computer-based review and analysis undertaken in Phase I of the names and information contained in the Hinton Laboratory data base itself, the Phase II review involved a by-hand, file-by-file review of individual laboratory documents.

The goal of the file-by-file review was to improve the accuracy of the master list by (i) manually updating, revising, or verifying the personal identifying information associated with the existing names (by including, wherever appropriate, additional data such as dates of birth, first names, middle names, last names, properly-spelled names, and police departments), as well as by (ii) creating new entries for the names and personal identifying information of (a) those individuals whose drug samples were associated with Ms. Dookhan but whose names were not previously contained in the laboratory data base (and therefore were not previously on the master list), (b) those individuals whose names were previously contained in the data base but within a single entry that contained multiple names or defendants and lacked sufficient personal identifying information, and (c) those individuals who were previously described generically within the laboratory data base (and therefore generically on the master list) as "multiple suspects", "multiple defendants", "co-defendants", "et al", or "etc."

As of April, 2013, we had reviewed by hand certain laboratory documents and records from the years 2012, 2011, and 2010. For 2012, the review generated no "new" or additional individuals whose drug samples were associated with Ms. Dookhan as the primary or secondary chemist. For 2011, the review generated 673 new or additional entries of individuals whose drug samples were associated with Ms. Dookhan as the primary chemist and 192 new or additional entries of individuals whose drug samples were associated with Ms. Dookhan as the secondary chemist. The majority of these new or additional entries were for individuals whose names were previously contained in the laboratory data base but within a single entry that contained multiple names or defendants and lacked sufficient personal identifying information. For 2011, the file by file review also enabled us to update, revise, or verify the names and personal identifying information of 2,068 previously-identified individuals whose drug samples were associated with Ms. Dookhan as the primary or secondary chemist.

For 2010, the review generated 1,369 new or additional entries of individuals whose drug samples were associated with Ms. Dookhan as the primary chemist and 1,066 new or additional entries of individuals whose drug samples were associated with Ms. Dookhan as the secondary chemist. Again, the majority of these new entries were for individuals whose names were previously contained in the laboratory data base but within a single entry that contained multiple names or defendants and lacked sufficient personal identifying information. For 2011, the file by file review enabled us to update, revise, or verify the names and personal identifying information of 6,411 previously-identified individuals whose drug samples were associated with Ms. Dookhan as the primary or secondary chemist.

Independent of our efforts during Phase II of our review, in early 2013, Navigant -- the outside document storage vendor contracted by the Inspector General's Office in connection with that Office's ongoing overall review of the Hinton Laboratory -- began the electronic collection, scanning, and storage of all documents and records generated at the laboratory from as far back as 1998, including those from 2012, 2011, and 2010 that we were then reviewing by hand. Given the nature, extent, and volume of the documents and records (as well as the various locations where they were then maintained, stored, or archived), the electronic collection, scanning, and storage process continued for several months. So too did our file-by-file review.

As of May of this year, as a result of the ongoing document collection and storage, we not only had the capability of accessing, reviewing, and analyzing electronically all of the data and information that the law enforcement investigators and information technology specialists from the State Police and the Executive Office of Public Safety and Security had researched and refined during Phase I of our efforts, but also all of the substantial additional data and information that were contained in the evidence submission forms, drug receipts, evidence control cards, chain of custody records, and other actual laboratory documents that formed the basis of our file-by-file review during Phase II of our review.

### **Phase III**

Accordingly, in order to provide the criminal justice system with the most accurate information available to us regarding the identity of each and every individual who potentially could have been affected by the alleged conduct of Ms. Dookhan, throughout June and July we researched and analyzed all of the data, laboratory

records, and related information that to date had been electronically collected and stored. In all, during Phase II and Phase III of the review, some 1.5 million hardcopy laboratory documents, comprising more than 3.5 million hardcopy pages, as well as another 3.5 million documents from electronic sources, were collected, stored, researched, and analyzed.

Based on the research and analysis conducted in Phase II and Phase III of our review, we have now generated a revised, updated, and comprehensive list of 40,323 names of individuals upon whose drug samples Ms. Dookhan performed testing as a primary chemist or a secondary (confirmatory) chemist from 2003 to the present. This new master list reflects our best efforts to identify each and every individual who potentially may have been impacted by the alleged conduct of Ms. Dookhan. A sample, illustrative version of the revised and updated master list (the original of which is CORI-protected) is attached as Exhibit B. Again, our primary purpose in creating the new master list is to ensure that prosecutors, defense attorneys, and judges (as well as all others within the system) are provided with as much information as possible about the identity of those individuals potentially affected, so as to enable each of the agencies and offices to respond appropriately to the alleged misconduct from their respective positions within the criminal justice system.

The new master list is in a format designed to be user-friendly. It contains the basic, necessary information that will enable the District Attorneys, law enforcement agencies, the Committee for Public Counsel Services, the private defense bar, and any other appropriate agencies to most accurately identify those individuals who potentially may have been impacted by Ms. Dookhan. The list is organized by county, and for most of the 40,323 names, includes individual entries reflecting the corresponding town, the

corresponding law enforcement agency, the name of the police officer who submitted the drug sample to the laboratory, the date the drug sample was submitted, the internal Hinton Laboratory sample number, the results of the drug testing, and the drug submission (or drug receipt) form. The drug submission form contains additional confidential law enforcement data and information which should enable the District Attorneys and/or the respective law enforcement agencies to locate the applicable police reports, arrest/booking records, and any other related materials.

In addition, by utilizing the specific internal Hinton Laboratory sample (or case) number that corresponds to each individual on the list, prosecutors and defense attorneys will soon be able to request access to copies of all of the relevant discovery material from the laboratory that relates to any specific individual defendant, individual case, or individual drug test.

As noted above, the new list contains 40,323 names. It is based, in part, upon a systematic review and analysis -- initially by hand and then electronically -- of some 3.5 million actual laboratory documents, including those related to over 86,000 drug samples associated with Ms. Dookhan. The original list, generated in September, 2012, contained 37,554 names. It was based upon the available personal identifying information and other data contained within the Hinton Laboratory database. The 2,769 additional names that we have identified are the result of our research and analysis during Phase II and Phase III of our review. As outlined above, most, if not all, of these additional names are the result of our research and analysis of previous multiple defendant (or "et al") drug samples and drug tests; most, if not all, of these additional names are associated with a name or an individual or a case that was contained on the original list generated in September, 2012.

**Endnote**

In the coming days, we intend to meet with the District Attorneys, the Committee for Public Counsel Services, the Chief Justices of the respective courts, the Massachusetts Bar Association, the Boston Bar Association, and any other appropriate agencies and offices to discuss and distribute the new master list.

One final note: This Report is meant to summarize for the Governor in a general way the nature, extent, and course of the research and analysis that was performed by the Task Force during the three phases of our review. It is neither intended nor designed to describe in detail our work over the past 10 months. Indeed, in the end, it is the revised and updated master list of names and related information that is our true report to the Governor and, perhaps more importantly, to the criminal justice system.